UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,735	12/21/2001	Atul Saini	FIOI-001	5056

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EXAMINER
DENNISON, JERRY B

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	**Applicant(s)**
Office Action Summary	10/029,735	SAINI ET AL.
	Examiner	**Art Unit**	
	J. Bret Dennison	2143	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _30 December 2005_.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1,6,9,26,28,29,31-34 and 38_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1,6,9,26,28,29,31-34 and 38_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This Action is in response to Application Number 10/029,735 received on 30

December 2005.

2.   Claims 1, 6, 9, 26, 28, 29, 31-34, and 38 are presented for examination.

Remarks

3.   Applicant's arguments filed on 30 December 2005 have been carefully

considered but they are not deemed fully persuasive. Applicant has not provided any

arguments regarding the 35 U.S.C. 112, first paragraph rejection of claim 6. Claim 6

has not been amended to cure the enablement issues and therefore, the rejection is

maintained.

Examiner would like to point out that any amendments made to the claims

require certain identifiers, for example, currently amended claim 29 contains

amendments that have not been identified by underlining the changes (i.e. "a subset of"

and "a"), which normally results in a Non-Responsive.

Applicant's amendments to the claims and arguments are addressed below.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of
> making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
> art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
> set forth the best mode contemplated by the inventor of carrying out his invention.

4.   Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with

the enablement requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to enable one skilled in the art to which it

pertains, or with which it is most nearly connected, to make and/or use the invention.

The Specification recites, "The component programs present on each node are

only concerned with taking the data presented by **the controller programs** on their

input ports, processing the data and writing the results to their output ports. **The**

controller programs provide an infrastructure for the component programs to

interact with each other..." (see Specification, page 9 lines 30-34).

Claim 6 recites, "The system as recited in claim 1 wherein the component

programs are adaptors for communicating with external applications that are not

installed within the system".

In short, claim 6 states the component programs performing the communication

with each other. However, the Specification states that the component programs are

only in communication with the controller programs which handle communication

between different systems.

Examiner's understanding of the intended invention is that the complexity of the

component programs is reduced due to the fact that they do not handle the

communication process between component programs. This raises questions of

enablement to Examiner and further explanation is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.   Claims 1, 26 recite the limitation (or one similar to it) "in which the distributed

application is composed externally". It is vague and unclear to Examiner as to <u>what</u> the

distributed application is external to, with respect to what element. The claim currently

reads as externally to anything and therefore has little patentable weight.

6.   Claim 1 recites the limitation "said component program" in line 2 of limitation a.

Claim 1 also recites "the component program" in lines 3-4 of limitation c. There is

insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

        The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

        Claims 1, 6, 9, 26, 28, 29, and 31 are rejected under 35 U.S.C. 102(b) as being

anticipated by Ciscon et al. (U.S. Patent Number 5,634,010).

7.   Regarding claims 1 and 26, Ciscon disclosed a system for developing distributed

applications over a network of computing units, the system comprising:

        a. a plurality of component programs installed over the network of computing

units to create the distributed application, wherein said component program receives

data presented at its input ports, processes said data and writes the results to its output

ports (Ciscon, col. 2, lines 31-45);

b. a plurality of data stores on one or more of the computing units in which the

distributed application is composed externally by specifying the component programs

that make up the application, the communication routes between the component

programs, and the nodes on which the component programs are to run (Ciscon, col. 2,

lines 45-65, col. 11, lines 5-25); and

c. multiple controller programs running on multiple computing units in the network

for transmitting data to said input ports of the component program and receiving data

from said output ports of the component programs and for transmitting and receiving

data with controller programs and disseminating said routing information to other

controller programs (Ciscon, col. 2, lines 45-60).

Claims 26 and 39 include limitations that are substantially similar to those of claim 1,

and are therefore rejected under the same prior art as claim 1.

8.   Regarding claim 6, Ciscon disclosed the limitations, substantially as claimed, as

described in claim 1, including wherein the component programs are adaptors for

communicating with external applications that are not installed within the system

(Ciscon, col. 3, lines 5-10).

9.   Regarding claim 9, Ciscon disclosed the limitations, substantially as claimed, as

described in claim 1, including wherein the data store can be replicated for high

availability on a multiplicity of computing units (Ciscon, col. 2, lines 57-62).

10.   Regarding claim 28, Ciscon disclosed the limitations, substantially as claimed, as

described in claim 26, including wherein the registering comprises:

        installing component programs on the computing units;

        specifying the external resources required by the component programs;

        specifying the input and output channels of the component programs; and

        making the component programs accessible to said computing units (Ciscon, col.

2, lines 45 through col. 3, line 20, Ciscon disclosed that the local router processes

acting as an interface between application processes and other routers, each router

having a connection table which maintains a list of the child processes connected to the

local router, the application processes installed on computers throughout the network,

therefore the application processes must be installed, the local routers keeping track of

the connections, therefore specifying external resources and providing routes, making

the application processes accessible).

11.   Regarding claim 29, Ciscon disclosed the limitations, substantially as claimed, as

described in claim 26, including wherein composing the distributed application

comprises the steps of:

choosing a subset of component programs from a set of component programs

adding and specifying the routes between the component programs;

specifying the computing unit on which the component program is to be run;

defining run time attributes of the component programs

defining various attributes of the routes; and

storing the composed distributed application in a data store (Ciscon, col. 2, lines

45 through col. 3, line 20, Ciscon disclosed that the local router processes acting as an

interface between application processes and other routers, each router having a

connection table which maintains a list of the child processes connected to the local

router, the application processes installed on computers throughout the network, and an

interest table that lists the interests of it child processes as well as the interests of the

other local routers, the routers therefore having a subset of component programs as

well as the routes, and attributes of the routes).

12.   Regarding claim 31, Ciscon disclosed the limitations, substantially as claimed, as

described in claim 29, including wherein the defining attributes of the routes comprises

defining the route type as peer-to-peer (Ciscon, col. 14, lines 15-40).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Applicant's Admitted Prior Art in the Background of Applicant's Specification, hereinafter

referred to by APA.

13.   Regarding claims 1 and 26, APA disclosed a system for developing distributed

applications over a network of computing units, the system comprising:

a. a plurality of component programs installed over the network of computing

units to create the distributed application, wherein said component program receives

data presented at its input ports, processes said data and writes the results to its output

ports (APA, page 1, lines 18-25, page 2, lines 4-12, APA disclosed a single large

program split into separate programs that worked together to perform the assigned task,

the programs spread across hardware and software systems);

b. a plurality of data stores on one or more of the computing units in which the

distributed application is composed externally by specifying the component programs

that make up the application, the communication routes between the component

programs, and the nodes on which the component programs are to run (APA, page 2,

lines 18-35, page 3, lines 10-14, 20-25, APA states that the routes and workflow are

stored within the memory of the system); and

   c. multiple controller programs running on multiple computing units in the network

for transmitting data to said input ports of the component program and receiving data

from said output ports of the component programs and for transmitting and receiving

data with controller programs and disseminating said routing information to other

controller programs (APA, page 3, lines 10-20, APA disclosed the workflow and data

routes within the application code itself while integrating with different applications,

therefore the controller programs combined with the component programs).

14.   Claims 32-34, and 38 include limitations that are substantially similar to those of

claims 1, 6, 9, 26, 28-31 and are therefore rejected under the same prior art used in the

rejections of claims 1, 6, 9, 26, 28-31 as being substantially similar.

Response to Amendment

15.   Applicant's arguments and amendments filed on 30 December 2005 have been

carefully considered but they are not deemed fully persuasive. Applicant's arguments

are deemed moot in view of the following new grounds of rejection as explained here

below, necessitated by Applicant's substantial amendment (i.e., *by incorporating new*

limitations into the independent claims, which will require further search and consideration) to the claims which significantly affected the scope thereof.

Applicant's arguments with respect to claims 1, 6, 9, 26, 28, 29, 31-34, and 38 have been fully considered but they are not persuasive.

Applicant states, "Claim 1a has been amended to include the definition of the component program" in which "the component program... only receives, processes and transmits data." Applicant argues that the component program "is not burdened with routing intelligence" and states that this is a "significant method step difference over Ciscon" [see Applicant's Response, page 8, last paragraph].

Examiner respectfully disagrees. The claim language does not distinguish over the prior art because the claim language does not **only** require the limitations of the claim. The claim language does not exclude the component program from having addressing and routing information." Therefore, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "**only** receives, processes and transmits") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that Ciscon does not disclose a data store created externally [see Applicant's Response, page 9, third paragraph]. As shown in the above rejection,

it is unclear as to what is meant by the term "externally" in the claim, for instance,

"external with respect to what?", and therefore has little patentable weight.

Regarding the third limitation of claim 1, Applicant argues, "Ciscon et al. does not

disclose an element of similar structure or functionality in its system." Examiner

respectfully disagrees, as explained in the provided rejection.

Applicant argues that "applications" discussed in Applicant's Admitted Prior Art

are not equivalent to the component programs of claim 1 [see Applicant's Response,

page 11, paragraphs 1-2]. Examiner respectfully disagrees, and Applicant is referred to

the reasons as stated above, involving the term "only".

Thus, Applicant's arguments drawn toward distinction of the claimed invention

and the prior art teachings on this point are not considered persuasive. It is also clear

to the Examiner that Ciscon clearly disclosed the independent claims of the Applicant's

claimed invention.

Furthermore, as it is Applicant's right to continue to claim as broadly as possible

their invention, it is also the Examiner's right to continue to interpret the claim language

as broadly as possible. It is the Examiner's position that the detailed functionality that

allows for Applicant's invention to overcome the prior art used in the rejection, fails to

differentiate in detail how these features are unique. By the rejection above, the

applicant must submit amendments to the claims in order to distinguish over the prior art use in the rejection that discloses different features of Applicant's claimed invention.

It is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully

requested to indicate the portion(s) of the specification which dictate(s) the structure

relied on for proper interpretation and also to verify and ascertain the metes and bounds

of the claimed invention.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-

3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David A Wiley can be reached on (571) 272-3923. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

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